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VETO—S. 557

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

RETURNING

WITHOUT MY APPROVAL S. 557, AND TRANSMITTING THE CIVIL RIGHTS PROTECTION ACT OF 1988

MARCH 16, 1988.—Ordered to be printed

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To the Senate of the United States:

I am returning unsigned with my objections S. 557 and transmitting for your prompt consideration the Civil Rights Protection Act of 1988. The Congress should enact legislation designed to eliminate invidious discrimination and to ensure equality of opportunity for all Americans while preserving their basic freedoms from governmental interference and control. Regrettably, the bill presented to me fails to achieve that objective.

There is no matter of greater concern to me than ensuring that our Nation is free of discrimination. Our country has paid a heavy price in the past for prejudices, whether based upon race, gender, ethnic background, religion or handicap. Such attitudes have no place in our society.

It was with this commitment in mind that in the wake of the Supreme Court's 1984 *Grove City College* decision, I voiced my support for legislation that would strengthen the civil rights coverage of educational institutions that existed prior to that decision. I have repeatedly endorsed legislation to do just that. Today I am sending to Congress a bill that goes further than the legislation previously endorsed. This proposed bill is intended to accommodate other concerns raised during Congressional consideration of the *Grove City* issue.

Our bill advances the protection of civil rights. It would:

—Prohibit discrimination against women, minorities, persons with disabilities, and the elderly *across the board* in public school districts, public systems of higher education, systems of vocational education, and private educational institutions which receive *any* Federal aid.

—Extend the application of the civil rights statutes to *entire* businesses which receive Federal aid as a whole and to the *entire* plant or facility receiving Federal aid in *every* other instance.

—Prohibit discrimination in *all* of the federally funded programs of departments and agencies of State and local governments.

Our bill complements well our body of existing Federal civil rights laws. But even more remains to be done. For example, I have urged the Congress to enact responsible legislation to deal with some obvious failures of the Fair Housing Act of 1968, including the need to protect persons with disabilities.

Congress, on the other hand, has sent me a bill that would vastly and unjustifiably expand the power of the Federal government over the decisions and affairs of private organizations, such as churches and synagogues, farms, businesses, and State and local governments. In the process, it would place at risk such cherished values as religious liberty.

The bill presented to me would diminish substantially the freedom and independence of religious institutions in our society. The

bill would seriously impinge upon religious liberty because of its unprecedented and pervasive coverage of churches and synagogues based on receipt of even a small amount of Federal aid for just one activity; its unprecedented coverage of entire religious elementary and secondary school systems when only a single school in such a system receives Federal aid; and its failure to protect, under Title IX of the Education Amendments of 1972, the religious freedom of private schools that are closely identified with the religious tenets of, but not controlled by, a religious organization.

Businesses participating in Federal programs, such as job training programs, would be subject to comprehensive Federal regulation. While some proponents of S. 557 have claimed that it would not apply to farmers who receive Federal crop subsidies or food suppliers who accept food stamps, the ambiguity in the statute and its legislative history indicates that these exemptions should be made explicit.

A significant portion of the private sector—entities principally engaged in the business of providing education, health care, housing, social services, or parks and recreation—would for the first time be covered nationwide in all of their activities, including those wholly unrelated activities of their subsidiaries or other divisions, even if those subsidiaries or divisions receive no Federal aid. Again, there was no demonstrated need for such sweeping coverage.

Further, this bill would be beyond pre-Grove City law and expand the scope of coverage of State and local government agencies. Under S. 557, any agency of such a government that receives or distributes such assistance would be subject in all of its operations to a wide-ranging regime of Federal regulation, contrary to the sound principles of federalism.

The cost and burdens of compliance with S. 557 would be substantial. The bill would bring to those it covers—which is most of America—an intrusive Federal regulatory regime; random on-site compliance checks by Federal officials; and increased exposure to lawsuits, which are costly to defend even when you win.

Moreover, such legislation would likely have the unintended consequences of harming many of the same people it is supposed to protect. For example, persons with disabilities seeking to enhance their job skills are not helped if businesses withdraw from Federal job-training programs because of their unwillingness to accept vastly expanded bureaucratic intrusions under S. 557. Business groups have indicated many of their members may do just that.

The Civil Rights Protection Act that I am proposing today addresses the many shortcomings of S. 557. The Civil Rights Protection Act would protect civil rights and at the same time preserve the independence of State and local governments, the freedom of religion, and the right of America's citizens to order their lives and businesses without extensive Federal intrusion.

The Civil Rights Protection Act contains important changes from S. 557 designed to avoid unnecessary Federal intrusion into the lives and businesses of Americans, while ensuring that Federal aid is properly monitored under the civil rights statutes it amends. The bill would:

—Protect religious liberty by limiting coverage to that part of a church or synagogue which participates in a Federal program;

by protecting under Title IX, the religious tenets of private institutions closely identified with religious organizations on the same basis as institutions directly controlled by religious organizations; and by providing that when a religious secondary or elementary school receives Federal assistance, only that school, and not the entire religious school system, becomes subject to the Federal regulation.

—Ensure that the reach of Federal regulation into private businesses extends only to the facility that participates in Federally funded programs, unless the business, as a whole, receives Federal aid, in which case it is covered in its entirety. The bill also states explicitly that farmers will not become subject to Federal regulation by virtue of their acceptance of Federal price support payments, and that grocers and supermarkets will not become subject to such regulations by virtue of accepting food stamps from customers.

—Preserve the independence of State and local government from Federal control by limiting Federal regulation to the part of a State or local entity that receives or distributes Federal assistance.

In all other respects, my proposal is identical to S. 557, including the provisions to ensure that this legislation does not impair protection for the lives of unborn children.

I urge that upon reconsidering S. 557 in light of my objections, you reject the bill and enact promptly in its place the Civil Rights Protection Act of 1988.

RONALD REAGAN.

THE WHITE HOUSE, *March 16, 1988.*

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